

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

VINCENT MITCHELL,
PLAINTIFF,

V.

WARDEN SPAULDING,
LT. LYONS,
DEFENDANTS,

CASE NO. _____

JURY TRIAL DEMANDED

CIVIL RIGHTS ACTION PURSUANT TO BIVENS V.
SIX UNKNOWN NAMED AGENTS OF FED. BUREAU OF
NARCOTICS. 403 U.S. 388 (1971).

NOW, HERE COMES THE PLAINTIFF WITH A MOTION
AND COMPLAINT UNDER THE EIGHTH AMMENDMENT
(CRUEL AND UNUSUAL PUNISHMENT/TORTURE). ADDITIONALLY
A VIOLATION OF AMERICAN WITH DISABILITY ACT.

1. VINCENT MITCHELL IS INCARCERATED AT FEDERAL MEDICAL
CENTER, DEVENS.
2. VINCENT MITCHELL IS AN AMPUTEE, LEFT LEG BELOW THE
KNEE.

3. VINCENT MITCHELL HAS AN ARTIFICIAL KNEE. HE IS AWAITING SURGERY ON HIS RIGHT KNEE.
4. PLAINTIFF WAS PLACED IN A NON-HANDICAPPED CELL (#224) ON APRIL 9, 2019 (IN SPECIAL HOUSING UNIT) IN THE SHU.
5. PLAINTIFF WAS GOING OUT THE NEXT DAY (4-10-19) TO HAVE SINUS CAVITY SURGERY ON HIS NOSE.
6. AT APPROXIMATELY 4³⁰ A.M. ON APRIL 10, 2019 PLAINTIFF AWOKES AND HAD TO USE THE TOILET IN HIS NON-HANDICAPPED CELL (#224 IN SHU).
7. PLAINTIFF PUT HIS LEFT PROSTHETIC ON AND WHEELED HIS WHEELCHAIR TO THE TOILET. TRYING TO GET UP AFTER USING THE TOILET, PLAINTIFF'S RIGHT KNEE BUCKLED (NO RAILINGS TO GRAB ONTO IN NON HANDICAP CELL). HIS LEFT LEG TWISTED IN THE PROSTHETIC AND HE FELL BACK ON TOP OF THE "STEEL TOILET" AND DOWN TO THE FLOOR ON HIS SIDE.

8. PLAINTIFF ATTEMPTED TO GET UP BUT COULD NOT WITH TERRIBLE BACK AND HIP PAIN.
9. FOR APPROXIMATELY TEN (10) MINUTES HE YELLED FOR HELP. AN OFFICER FINALLY HEARD HIM AND SAID "I WILL BE BACK, WAIT A MINUTE." AFTER APPROXIMATELY (5) FIVE MINUTES MORE, (2) TWO OFFICERS ENTERED PLAINTIFF CELL AND THEY HELPED PLAINTIFF UP OFF THE FLOOR AND INTO THE WHEELCHAIR.
10. PLAINTIFF HEARD ONE OF THE OFFICERS SAY TO THE OTHER "WHY DIDN'T YOU PUT HIM INTO A HANDICAPPED CELL?" PLAINTIFF WAS UNABLE TO HEAR THE OFFICERS REPLY.
11. OFFICER DAVIS, ASKED WHAT HAPPENED AND WAS ONE OF THE OFFICERS IN PLAINTIFF CELL.
12. PLAINTIFF WAS TOLD "YOU ARE GOING OUT FOR SURGERY IN A LITTLE WHILE, TELL YOUR PHYSICIAN'S ASSISTANT (P.A.) WHEN SHE DISCHARGES YOU FOR SURGERY IN A LITTLE WHILE."

13. PLAINTIFF WAS IGNORED IN THE MORNING APRIL 10, 2019 AS HE LEFT FMCD FOR SURGERY AT A LOCAL HOSPITAL,
14. PLAINTIFF WAS IN HORRIBLE BACK AND HIP PAIN, AGAIN HIS P.A. (MACKOWICZ) IGNORED HIS COMPLAINT OF PAIN AND BACK, HIP ISSUES.
15. UPON RETURNING THE SAME DAY (APRIL 10, 2019) PLAINTIFF SAW HIS P.A. (MACKOWICZ) AGAIN IGNORED HIS COMPLAINT OF PAIN IN HIS BACK AND HIP.
16. THAT NIGHT PLAINTIFF HAD TO SLEEP IN HIS WHEELCHAIR, UNABLE TO LAY DOWN IN HIS BED DUE TO BACK AND HIP PAIN.
17. IN THE MORNING (APRIL 11, 2019) PLAINTIFF WENT TO DIALYSIS, UNABLE TO GET OUT OF HIS WHEEL CHAIR. NURSE DEBBIE ASSISTED HIM IN GETTING UP ON THE SCALE AS WELL AS THE OFFICER ON DUTY IN THE DIALYSIS CLINIC.
18. P.A. (MACKOWICZ) WAS CALLED BY DIALYSIS TO COME TO THE CLINIC AND ADDRESS PLAINTIFFS

HORRIBLE, UNCONTROLLABLE PAIN FROM HIS FALL IN THE SHU.

19. P.A. (Mackowicz) TOLD PLAINTIFF TO COME TO HER OFFICE IN THE CLINIC AT 1 PM. (AFTER LUNCH).

20. UPON SEEING HIS P.A. (Mackowicz) SHE INSTRUCTED HIM ABOUT HIS SINUS SURGERY AND HOW TO CLEANSSE / RINSE HIS NOSE OUT FOUR (4) TIMES A DAY.

21. SHE IGNORED HIS CONTINUED COMPLAINTS ABOUT THE BACK/HIP PAIN FROM HIS FALL.

22. P.A. (Mackowicz) DID GIVE PLAINTIFF LIMITED PAIN MEDICATION FOR HIS NOSE POST SURGERY.

23. THE OFFICERS IN THE SHU WHO HELPED PLAINTIFF UP AFTER HIS FALL ENCOURAGED PLAINTIFF TO IGNORE HIS PAIN FROM THE FALL SAYING "IF YOU COMPLAIN TOO MUCH THEY WILL CANCEL YOUR SINUS SURGERY."

24. MEDICAL PERSONNEL HAVE CONTINUED TO IGNORE PLAINTIFF'S COMPLAINTS ABOUT HIS BACK AND HIP PAIN AS WELL AS HIS P.A. (Mackowicz).
25. OFFICER'S AS WELL AS MEDICAL STAFF KNEW PLAINTIFF WAS TO BE IN A HANDICAPPED CELL PRIOR TO HIS SURGERY.
26. P.A. (Mackowicz) HAS A DOCUMENTED HISTORY OF IGNORING INMATES PAIN ISSUES AND NOT ADDRESSING PHYSICAL ISSUES.
27. THIS IS A CLEAR VIOLATION OF AMERICANS WITH DISABILITIES ACT AS WELL AS A VIOLATION OF PLAINTIFFS CIVIL RIGHTS.
28. IT IS THE OFFICER'S AND MEDICAL STAFFS JOB NOT TO PUT HANDICAPPED INMATES INTO NON HANDICAPPED CELLS AND TO ADDRESS COMPLAINTS ABOUT SEVERE AND PUNISHING PAIN.
29. PLAINTIFF HAS ATTEMPTED TO FILE A GRIEVANCE AND HIS ATTEMPTS WERE IGNORED BY HIS UNIT TEAM.

30. PRIOR TO THIS INCIDENT, I NEVER HAVE HAD ANY BACK PAIN OR ANY BACK ISSUES.

31. I AM AND HAVE BEEN SLEEPING IN MY WHEELCHAIR.

32. I NEED A TRAPEZE ON MY BED TO ASSIST ME IN GETTING IN AND OUT OF BED.

33. I NEED ASSISTANCE GETTING IN AND OUT OF MY WHEELCHAIR WHILE IN DIALYSIS.

RELIEF

1. PLAINTIFF SEEKS NOMINAL DAMAGES \$500.⁰⁰
2. PLAINTIFF SEEKS COMPENSATORY DAMAGES
\$2,000,000.⁰⁰
3. PLAINTIFF SEEKS PUNITIVE DAMAGES \$5,000,000.⁰⁰

Respectfully Submitted

Vincent Mitchell
VINCENT MITCHELL
12327-019

UNDER FEDERAL RULES OF CIVIL PROCEDURE 11, BY
SIGNING THIS STATEMENT OF CLAIM, I CERTIFY
TO THE BEST OF MY KNOWLEDGE THE STATEMENTS
ARE TRUE AND ACCURATE.